

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

JEREMY WAYNE CALDWELL,

Plaintiff,

v.

Civil Case No. 18-13435  
Honorable Linda V. Parker

GERALD GIBSON, JR.,

Defendant.

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**OPINION AND ORDER GRANTING DEFENDANT'S MOTION TO**  
**DISMISS (ECF NOS. 22, 23)<sup>1</sup> AND**  
**DISMISSING CASE FOR FAILURE TO PROSECUTE**

I.

This is a prisoner civil rights case filed under 42 U.S.C. § 1983 and state law. On November 2, 2018, Plaintiff, through counsel, filed a Complaint claiming (1) gross negligence, (2) assault and battery, (3) excessive force, and (4) conspiracy. Plaintiff's counsel later filed a motion to withdraw (ECF No. 16), which the Honorable Avern Cohn granted in an order dated August 27, 2019. (ECF No. 19). In the order, Judge Cohn stayed proceedings for thirty days to allow Plaintiff to retain new counsel or proceed *pro se* and also stated: "If there is

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<sup>1</sup> Defendant filed two identical motions to dismiss.

no progress on this case within 90 days the court will close the case for lack of prosecution.” (*Id.* at Pg ID 73.) More than 90 days have elapsed and Plaintiff has taken no action on this case.

On January 2, 2020, this matter was reassigned to the undersigned pursuant to Administrative Order 20-ao-003. In the meantime, Defendant has filed a motion to dismiss for failure to prosecute. (ECF Nos. 22, 23.) Defendant served Plaintiff with a copy of the motion via First Class mail. Plaintiff has not responded to the motion and the time for filing a response has passed.

## II.

In light of the circumstances described above, Defendant’s motion is well-taken and is **GRANTED**. This case is **DISMISSED** for failure to prosecute. *See* Fed. R. Civ. P. 41(b) and ED Mich. LR 41.2.

**IT IS SO ORDERED.**

s/ Linda V. Parker  
LINDA V. PARKER  
U.S. DISTRICT JUDGE

Dated: January 21, 2020